

APPEAL NO. 020346
FILED MARCH 7, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on January 11, 2002, the hearing officer determined that the respondent's (claimant) income benefits began to accrue on August 23, 2000. The appellant (self-insured) has filed a request for review, urging that the evidence established that the accrual date was May 9, 1997. The claimant's response urges the sufficiency of the evidence to support the challenged determination.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

Section 410.202(a) provides in part that to appeal the decision of a hearing officer, a party shall file a written request for appeal not later than the 15th day after the date on which the decision of the hearing officer is received from the Hearings Division. *And see* Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3 (Rule 143.3). Rule 143.3(c) provides that a request shall be presumed to be timely filed if it is mailed not later than the 15th day after the date of receipt of the hearing officer's decision and is received by the Texas Workers' Compensation Commission (Commission) not later than the 20th day after the date of receipt of the hearing officer's decision. Both portions of Rule 143.3(c) must be complied with in order for an appeal to be timely filed. Texas Workers' Compensation Commission Appeal No. 94065, decided March 1, 1994.

Records of the Commission reflect that a representative of the self-insured signed for a copy of the hearing officer's decision on January 16, 2002. The Commission's cover letter of that date advises that an appeal is to be mailed to the following address:

Appeals Clerk
Texas Workers' Compensation Commission
Post Office Box 40669
Austin, Texas 78704-0012.

For filing by mail pursuant to Rule 143.3(c), the last day for the self-insured's appeal to have been timely mailed was February 7, 2002, and the last day for the appeal to have been timely received was February 14, 2002. The self-insured's certificate of service reflects that the appeal was mailed to the Commission, by certified mail, on February 5, 2002. However, the appeal was not received by the Commission through the mail. The self-insured hand delivered the appeal to the Commission on February 12, 2002, with a cover letter explaining that the appeal had been originally mailed by certified mail on February 5, 2002, but that the postal service "green card" returned to the self-insured was signed by a person from the (TBPE), not the Commission. The self-insured provided a

copy of the envelope it had mailed which reflects the certified mail receipt number, a post-mark date of February 5, 2002, the Commission address as "PO Box 17848, Austin TX 78760-7848," the Commission's old address, and a label indicating that the envelope was apparently returned by the postal service to the TBPE. Since the self-insured's appeal was not filed by mail, the filing by hand delivery on February 12, 2002, was untimely.

The hearing officer's decision and order have become final under Section 410.169.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
AUSTIN, TEXAS 78701.**

For service by mail the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
THE STATE OFFICE OF RISK MANAGEMENT
P.O. BOX 13777
AUSTIN, TEXAS 78711-3777.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Michael B. McShane
Appeals Judge